

# **EXHIBIT “D-2”**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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SIDNEY MANES, ADMINISTRATOR OF THE ESTATE  
OF HECTOR RIVAS,

Plaintiff,

vs.

No.: 19-CV-844 (BKS) (TWD)

ONONDAGA COUNTY; CITY OF SYRACUSE;  
WILLIAM FITZPATRICK; DR. ERIK MITCHELL;  
AND "JOHN DOES 1-10",

Defendants.

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Transcript of the Videotaped Examination  
Before Trial of SIDNEY MANES, a Witness called  
for the purpose of discovery, taken on August 22,  
2022, by Zoom Video Conference, taken before  
Angela S. Stangel, Court Reporter and Notary  
Public, pursuant to Notice.

**ANGELA S. STANGEL**  
**Court Reporter**  
**10455 Webster Hill Road**  
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VIDEOGRAPHER: TIM POTTER, PARROTTA STUDIO

1                                    **S T I P U L A T I O N S**

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3                                    IT IS HEREBY STIPULATED AND AGREED  
4        that the transcript may be signed before any Notary  
5        Public with the same force and effect as if signed  
6        before a clerk or Judge of the Court; and it is

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8                                    FURTHER STIPULATED AND AGREED that  
9        this deposition may be utilized for all purposes as  
10       provided by the Federal Rules of Civil Procedure; and  
11       it is

12

13                                   FURTHER STIPULATED AND AGREED that  
14       all rights provided to all parties by the Federal Rules  
15       of Civil Procedure shall not be deemed waived and the  
16       appropriate sections of the Federal Rules of Civil  
17       Procedure shall be controlling with respect thereto.

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1                    I N D E X   O F   W I T N E S S

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3                    WITNESS                    PAGE

4        SIDNEY MANES

5                    By Mr. Julian                    6

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1                   VIDEOGRAPHER POTTER: We are on the  
2                   record at 2:06 p.m. Today is Monday,  
3                   August 22, 2022. I am Tim Potter of  
4                   Parrotta Studio located at 350 Merchants  
5                   Road, Rochester, New York. We  
6                   conducting this deposition via video  
7                   conference. We are about to begin the  
8                   video recorded deposition of Sidney L.  
9                   Manes in the matter of Sidney Manes,  
10                  Administrator of the Estate of Hector  
11                  Rivas, plaintiff, v Onondaga County,  
12                  City of Syracuse, William Fitzpatrick,  
13                  Doctor Erik Mitchell, and John Does 1  
14                  through 10, defendants. In attendance  
15                  is the court reporter Angela Stangel of  
16                  Boonville, New York. At this time the  
17                  attorneys will identify themselves and  
18                  the parties they represent, after which  
19                  our court reporter will swear in the  
20                  witness and we may proceed.

21                 MR. RICKNER: Rob Rickner, Rickner,  
22                 PLLC for plaintiff as administrator,  
23                 Sidney Manes.

24                 MR. MOSKOVITZ: Josh Moskovitz,  
25                 also for the plaintiff.

1 MR. SONNEBORN: James Sonneborn of  
2 the Law Firm Bousquet Holstein for  
3 Mr. Manes, as I am of counsel to the  
4 firm as general counsel to the estate,  
5 not counsel for the litigation.

6 MR. JULIAN: Bob Julian for the  
7 defendants Fitzpatrick and Mitchell.

8 MR. VENTRONE: Mark Ventrone for  
9 the defendant County of Onondaga.

10 SIDNEY L. MANES, having been  
11 called as a Witness, being first duly sworn, was  
12 examined and testified as follows under oath:

13 SIDNEY L. MANES BY MR. JULIAN:

14 Q. Good afternoon, Mr. Manes. Before  
15 commencing this deposition today, did you have an  
16 opportunity to review your previous deposition?

17 A. No.

18 Q. You haven't read the deposition that you  
19 gave on May 31, 2022?

20 A. Yes, I think I do, yeah.

21 Q. My question is have you read it before  
22 coming here --

23 A. No.

24 Q. -- to testify today?

25 A. No. I am sorry to say, Mr. Julian, I

SIDNEY L. MANES BY MR. JULIAN

1 did not.

2 Q. Okay. At that deposition we left off  
3 asking some questions about paragraph 75 of  
4 Exhibit A. Could you go now to page 13?

5 MR. RICKNER: Can you identify  
6 Exhibit A for the record.

7 MR. JULIAN: Exhibit A is the First  
8 Amended Complaint.

9 A. I am reading it, yes.

10 MR. RICKNER: I believe it's being  
11 partially cut off by the video window,  
12 so if you could move it over what on  
13 your screen would be roughly an inch  
14 because I think we might be losing words  
15 on the right side.

16 (Whereupon, a discussion was held  
17 off the record.)

18 MR. RICKNER: Now we can see all  
19 the words.

20 BY MR. JULIAN:

21 Q. Mr. Manes, if you look at paragraph 74  
22 it states "to the Grand Jury, Mitchell presented  
23 fabricated and false testimony and suppressed and  
24 concealed the truth in an effort to secure Hector  
25 Rivas' prosecution, indictment, and conviction at



SIDNEY L. MANES BY MR. JULIAN

1 all costs." Do you see that?

2 A. Yes, I do.

3 Q. What is your basis for making that  
4 allegation?

5 MR. RICKNER: Objection as to form.

6 You can answer.

7 A. As I recall, I read some of the  
8 testimony from the Grand Jury, and in that  
9 testimony, there was a reference to by  
10 Doctor Mitchell that he had read his notes and  
11 slides. And that those slides were subsequently,  
12 as I recall, in the document, I think,  
13 Fitzpatrick used those words the slides to  
14 present to the Grand Jury, which indicted Hector  
15 Rivas. And there were subsequent documents, I  
16 think it might be referenced in here, but I don't  
17 see at all, that those slides never existed.

18 MR. JULIAN: Tim, could you pull up  
19 KK, please?

20 (Whereupon, a discussion was held  
21 off the record.)

22 MR. RICKNER: Can you please  
23 identify KK for the record?

24 MR. JULIAN: I will.

25

SIDNEY L. MANES BY MR. JULIAN

1 BY MR. JULIAN:

2 Q. This, Mr. Manes, is a copy of  
3 Doctor Mitchell's Grand Jury testimony. I ask  
4 you to look at it, review it, and direct me to  
5 where Doctor Mitchell mentioned slides or  
6 discussed slides or testified about slides to the  
7 Grand Jury?

8 A. I need to read the whole document,  
9 please.

10 Q. Sure.

11 (Whereupon, a discussion was held  
12 off the record.)

13 BY MR. JULIAN:

14 Q. Let me know when you completed your  
15 reading?

16 A. There is no more pages. I have  
17 completed my reading.

18 Q. Doctor Mitchell testified before the  
19 Grand Jury. Did you see anywhere in his  
20 testimony where he mentioned slides?

21 A. No, did not.

22 MR. JULIAN: Can we go back to  
23 Exhibit A, Tim, page 13, please?

24 (Whereupon, a discussion was held  
25 off the record.)

SIDNEY L. MANES BY MR. JULIAN

1 BY MR. JULIAN:

2 Q. Mr. Manes, you said in paragraph 75 that  
3 Fitzpatrick and Mitchell deliberately withheld  
4 from the Grand Jury the fact that Mitchell had  
5 previously determined that Hill's homicide had  
6 occurred at the absolute earliest in the  
7 afternoon of Saturday, March 28, 1987. Do you  
8 see that?

9 A. Yeah, I see it.

10 Q. In your deposition when we took a break  
11 I asked you the following question, can you  
12 direct me to any document written or signed by  
13 Erik Mitchell that said that Hill's homicide had  
14 occurred at the absolute earliest in the  
15 afternoon of March 28, 1987. Do you recall that?

16 A. Would you say it again, please,  
17 Mr. Julian?

18 Q. Certainly. The question that I asked  
19 you when we broke up and you did not answer was  
20 can you direct me to any document written or  
21 signed by Doctor Erik Mitchell that said that  
22 Hill's homicide had occurred at the absolute  
23 earliest in the afternoon of Saturday, March 28,  
24 1987?

25 A. Mr. Julian, I don't understand your

SIDNEY L. MANES BY MR. JULIAN

1 question.

2 Q. Okay. Let me ask it this way. To your  
3 knowledge, did Doctor Mitchell ever put in  
4 writing an opinion that Ms. Hill died either on  
5 Saturday or Sunday?

6 A. I read the warrant that was issued to  
7 examine Mr. Hector Rivas' home and that affidavit  
8 was by a police officer, Mr. Phinney, I think his  
9 name was who testified. In the affidavit  
10 submitted to the judge that the time of death,  
11 which came from the medical examiner, that she  
12 had died Saturday night or Sunday morning.

13 Q. My question of you is do you have  
14 anything written or authored or signed by  
15 Doctor Mitchell to that effect?

16 A. His testimony that Mr. Fitzpatrick  
17 brought out at the time of the trial said that he  
18 renewed his review of the notes and slides.  
19 That's what he testified to and he did that under  
20 oath.

21 Q. What I am asking you is can you tell me,  
22 was there any opinion that you can direct me to  
23 by Doctor Mitchell that was in writing prior to  
24 his testimony that indicated that he believed the  
25 cause of death to be Saturday or Sunday authored

SIDNEY L. MANES BY MR. JULIAN

1 by Doctor Mitchell?

2 A. Well, he gave an interview to the  
3 newspaper. He also, as I said, he told the  
4 police the time of death by an affidavit that  
5 they signed. And that he testified under oath  
6 that there were notes and slides that he read  
7 before he testified.

8 Q. Mr. Manes, the interview to the  
9 newspaper, did that interview -- is it your  
10 testimony that that interview quoted  
11 Doctor Mitchell?

12 A. I'm sorry, I can't answer that unless I  
13 see the Post Standard article.

14 Q. Apart from a newspaper article, in all  
15 the documents that you have reviewed, can we  
16 agree that nowhere in those documents did  
17 Doctor Mitchell put in writing an opinion that  
18 Ms. Hill died on Saturday or Sunday?

19 MR. RICKNER: Objection as to form,  
20 those documents.

21 MR. JULIAN: Yeah, that's fine. He  
22 can answer the question, I assume.

23 MR. RICKNER: You can answer.

24 A. No. There is no signed statement that I  
25 know that I reviewed about the time of death that

SIDNEY L. MANES BY MR. JULIAN

1 he had testified to or signed a document. I  
2 don't know about that. Maybe he did. I have no  
3 idea.

4 (Whereupon, a discussion was held  
5 off the record.)

6 BY MR. JULIAN:

7 Q. If we go to 76, if we can scroll to 76.  
8 76, you allege the following "Mitchell and  
9 Fitzpatrick and Does 1 through 10 also  
10 deliberately withheld from the Grand Jury that  
11 Mitchell was under investigation for multiple  
12 wrongdoings and that he had brokered a deal with  
13 Fitzpatrick in 1987 in exchange for expanding  
14 Hill's time of death to include Friday, March 26,  
15 1987, Mitchell would receive favorable treatment  
16 from Fitzpatrick and the other agencies  
17 investigating Mitchell's illegal conduct." Do  
18 you see that?

19 A. Yep.

20 Q. What is your basis for that allegation?

21 MR. RICKNER: Objection as to form.

22 You can answer.

23 A. As I remember, we were in court and  
24 Doctor Mitchell had with him his attorney Sidney  
25 Cominsky, and I was standing next to, I believe

SIDNEY L. MANES BY MR. JULIAN

1 Mr. Fitzpatrick as I recall, and they had a  
2 discussion about the misconduct of  
3 Doctor Mitchell and the investigation that was  
4 ongoing and that -- that is my best recollection.  
5 I didn't hear him say you can go free if you  
6 change your testimony. I didn't hear any of  
7 that. But I know he had a lawyer with him and  
8 they had a conversation in court.

9 Q. What court, when?

10 A. It was in Supreme Court. We were in  
11 front of -- I don't remember the name of the  
12 judge. It was in the -- well, I think it was the  
13 Nanette Gordon case I was involved in and they  
14 were there. It was a question of whether or  
15 not -- well, that doesn't matter. But I was  
16 there and Doctor Mitchell was there and  
17 Fitzpatrick was there and Sidney Cominsky was  
18 there.

19 Q. Tell me everything you remember about  
20 that? First of all, why were you in court?

21 A. Doctor Mitchell --

22 THE WITNESS: Is it relevant?

23 MR. RICKNER: You can answer his  
24 question.

25 THE WITNESS: I can answer his

SIDNEY L. MANES BY MR. JULIAN

1 question. Okay.

2 MR. RICKNER: Go for it.

3 A. Doctor Mitchell had issued an autopsy  
4 report and he had indicated that --

5 THE WITNESS: Should I keep  
6 talking?

7 MR. JULIAN: I apologize. My dogs  
8 like to bark.

9 A. -- Doctor Mitchell's death certificate  
10 was undetermined how she died. I was trying to  
11 prove to the Court that everything about the  
12 death to me seemed to be murder and that he  
13 refused to change the death certificate. I took  
14 him to court. The Court ordered an autopsy of  
15 the body and an examination by three independent  
16 medical examiners. And two decided of the three  
17 that it was a homicide. And we were in court at  
18 that time talking about the changing of the death  
19 certificate. There was some discussion, I think,  
20 of Doctor Mitchell being one of the people who  
21 were interested -- we thought he might be  
22 interested in her death. So we were all in  
23 court, including his lawyer. We were standing at  
24 the railing. They were talking. Subsequently  
25 Doctor Mitchell also testified and became the



SIDNEY L. MANES BY MR. JULIAN

1 medical examiner in Hector's case and that was  
2 how I got involved with Hector.

3 Q. So what you are describing, being  
4 present in court with regard to -- I'm sorry if I  
5 say her name wrong -- Nanette Gordon.

6 A. Nanette Gordon. She was a doctor.

7 Q. This preceded the death of Ms. Hill,  
8 correct?

9 A. Correct.

10 Q. So what you are describing is a  
11 discussion between District Attorney Fitzpatrick,  
12 Doctor Mitchell, and Sidney Cominsky that  
13 occurred before the death of Ms. Hill, correct?

14 A. You are absolutely correct. But do you  
15 want an explanation of why?

16 Q. Sure.

17 A. There were misdemeanors outstanding  
18 against Doctor Mitchell for his operation as a  
19 medical examiner. He was burying body parts. He  
20 was selling body parts. He was pouring blood  
21 down the drain. This was all documented by  
22 people who worked for him. At that point in time  
23 I think there were over a hundred misdemeanors.  
24 There might have even been a couple of felonies,  
25 as I remember. He was being examined, Doctor

SIDNEY L. MANES BY MR. JULIAN

1 Mitchell was, by the Health Department as to the  
2 operation of his department. So there was a lot  
3 going on with Doctor Mitchell at that point. And  
4 he was, in my opinion, also considered because  
5 Doctor Gordon had worked as an intern at the  
6 pathologists at his medical examination. He was  
7 very much involved and attracted to her. So  
8 there was a lot going on at the time.

9 Q. What year was this?

10 A. Well, I would have to look at some  
11 documents to remember that, but it was prior to  
12 Hector. I can't remember when Nanette Gordon was  
13 murdered. No, I can't at this point.

14 Q. Sure. So it's your testimony that at  
15 the time you were in court with Sidney Cominsky  
16 and William Fitzpatrick and Erik Mitchell, Erik  
17 Mitchell had a hundred misdemeanors pending  
18 against him?

19 A. I think there were -- yeah. I think  
20 that was what the case was. That was being  
21 brought up. I was being explained to the Court.  
22 He had a couple of felonies, as I recall. And he  
23 was considered involved in the Nanette Gordon's  
24 death.

25 Q. This is before the death of Ms. Hill,

SIDNEY L. MANES BY MR. JULIAN

1 correct?

2 A. Yes. I don't know whether it was or  
3 not. I can't remember that.

4 Q. Tell me everything you remember you  
5 heard said between Mr. Fitzpatrick, Mr. Cominsky,  
6 and Doctor Mitchell?

7 A. I think I told you. I didn't hear them  
8 discussing doing away with the charges, but they  
9 had talked about it. Now, there is also another,  
10 I think it was Doctor Mengle or one of the  
11 doctors who were working in his office gave an  
12 affidavit in a lawsuit that Fitzpatrick came to  
13 Mitchell and they had a conversation in  
14 Mitchell's office and this was after Hector had  
15 died -- not died, but had been convicted. I  
16 don't know what that was about, but they  
17 identified the fact that Fitzpatrick and Mitchell  
18 had a private conversation.

19 Q. What else do you have that supports your  
20 allegation that Mitchell was under  
21 investigation -- I am looking at paragraph 76 --  
22 for multiple wrongdoings and that he had brokered  
23 a deal with Fitzpatrick in 1987 in exchange for  
24 expanding Hill's time of death to include Friday,  
25 March 26, 1987?

SIDNEY L. MANES BY MR. JULIAN

1           A.       The fact that Doctor Mitchell left our  
2       community and resigned. And that this was after  
3       he had testified. And he left Onondaga County  
4       with a clean bill of health and everything else  
5       evaporated. Now, that is an assumption, maybe,  
6       that I gave it without question, but something  
7       had taken place between Doctor Mitchell and  
8       Fitzpatrick. He was under a mentor provided by  
9       the Mental Health Department because of the  
10      operation. There were lots of things. He just  
11      walked away from Onondaga County with a clean  
12      bill of health.

13          Q.       So if I understand this allegation, this  
14      allegation states that a deal had been brokered  
15      with Fitzpatrick in 1987. Isn't that what the  
16      allegation says?

17                   MR. RICKNER: Objection. I don't  
18                   believe that is clear from the sentence.

19      BY MR. JULIAN:

20          Q.       Let me ask it different. Does  
21      paragraph 76 say that Mitchell had brokered a  
22      deal with Fitzpatrick in 1987 in exchange for  
23      expanding Hill's time of death?

24                   MR. RICKNER: Same objection.

25

SIDNEY L. MANES BY MR. JULIAN

1 BY MR. JULIAN:

2 Q. Doesn't it say that? Do you agree that  
3 this allegation identifies 1987 as the date that  
4 this deal was made with Fitzpatrick?

5 MR. RICKNER: Same objection.

6 BY MR. JULIAN:

7 Q. Are you able to answer it sir?

8 THE WITNESS: Should I answer it?

9 MR. RICKNER: Oh, no, no, you can  
10 absolutely answer.

11 A. I am sorry. The question was? Just a  
12 second, let me read it again. Your question to  
13 me, Mr. Julian?

14 BY MR. JULIAN:

15 Q. My question to you was and is do you  
16 allege in paragraph 76 that in 1987 Mitchell  
17 brokered a deal with Fitzpatrick in exchange for  
18 expanding Hill's time of death to include  
19 March 26, 1987, Mitchell would receive favorable  
20 treatment from Fitzpatrick and other agencies  
21 investigating Mitchell's illegal conduct?

22 MR. RICKNER: Objection to the  
23 form. You can answer.

24 A. He didn't, to my knowledge. And when I  
25 read the Grand Jury minutes, that was not where

SIDNEY L. MANES BY MR. JULIAN

1 the deal was made or that he said he had slides,  
2 but when the jury heard from Fitzpatrick's  
3 questioning of Doctor Mitchell on the stand that  
4 there were slides and notes and that was how  
5 Doctor Mitchell was able to expand his  
6 justification for changing the time of death.  
7 Now, you know, with all due respect, he had  
8 substantiated with the affidavit given to  
9 Phinney. It was in the newspapers. He told the  
10 newspapers "I have never met a defendant I  
11 couldn't convict on the evidence." There were  
12 too many things going on with Doctor Mitchell.  
13 And yet, to have him come forward and talk about  
14 the notes and the slides, they made the  
15 impression without question that there had been a  
16 deal made for him to expand the time of death.

17 MR. JULIAN: So I am going to  
18 reserve the right to move to strike the  
19 unresponsive answers.

20 BY MR. JULIAN:

21 Q. More specifically, what I am trying to  
22 glean from you, sir, is are you claiming that  
23 Fitzpatrick and Mitchell made a deal in 1987  
24 prior to his Grand Jury testimony that Mitchell  
25 would receive favorable treatment from

SIDNEY L. MANES BY MR. JULIAN

1 Fitzpatrick in return for expanding Hill's time  
2 of death?

3 MR. RICKNER: Objection to form.

4 You can answer.

5 A. Mr. Julian, you are going to have to  
6 read the affidavit and the testimony of  
7 Doctor Cheryl Wachtler as to how you determine  
8 the time of death. I can only assume that he  
9 walked away from Onondaga County over his head in  
10 concerns and did not take one bad thought with  
11 him. Now, he testified to the slides. There  
12 weren't any slides, none. There were two  
13 pictures is all there was. It had to be  
14 something to give him the benefit of the doubt  
15 that he moved forward on behalf of District  
16 Attorney Fitzpatrick.

17 BY MR. JULIAN:

18 Q. So let me repeat the question again.  
19 Are you saying that a deal was brokered to expand  
20 the time of death with Fitzpatrick and Mitchell  
21 before Mitchell's Grand Jury testimony, yes or  
22 no?

23 A. I can only assume.

24 Q. Okay. Paragraph 77 you state upon  
25 information and belief, Mitchell repeated to the

SIDNEY L. MANES BY MR. JULIAN

1 Grand Jury the false and fabricated allegations  
2 he had forwarded to the District Attorney and  
3 which formed the basis of Hector Rivas'  
4 prosecution. Why did you make this allegation  
5 upon information and belief?

6 MR. RICKNER: Objection to form.

7 A. Because I subsequently found out of the  
8 testimony on the affidavit from Doctor Wachtler  
9 and looking at the slides which we subsequently  
10 found and found that there weren't slides, there  
11 were pictures. Now, he performed the autopsy and  
12 he testified as to rigor mortis and all of that.  
13 And yet subsequently it turned out that he was  
14 not testifying with medical accuracy. He was  
15 falsifying information as to what he found. Now,  
16 that is what I read. I read most of all the  
17 testimonies, if I can remember. I just assumed  
18 that there was a deal.

19 BY MR. JULIAN:

20 Q. Okay. When you say I just assumed that  
21 there was a deal --

22 A. Upon information and belief.

23 Q. -- you assumed there was a deal -- if I  
24 could just finish -- between Fitzpatrick and  
25 Mitchell to obtain false testimony from Mitchell,



SIDNEY L. MANES BY MR. JULIAN

1 is that what you are saying?

2 MR. RICKNER: Object to the form.

3 A. No. I don't think it was false.

4 Whether it was false testimony or not, it  
5 subsequently came out, yeah. His testimony that  
6 he gave to the Grand Jury.

7 BY MR. JULIAN:

8 Q. My problem is paragraph 77 says Mitchell  
9 repeated to the Grand Jury the false and  
10 fabricated allegations. What false and  
11 fabricated allegations are you talking about?

12 A. You should have heard the summation.  
13 You should have heard the closing by  
14 Mr. Fitzpatrick who said clearly that there were  
15 slides and what kind of slides that there were.  
16 That wasn't true. There were no slides prepared  
17 by Doctor Mitchell. He didn't even have the  
18 brain. It was done by Doctor Collins at, I think  
19 one of the Universities at Upstate. He got a  
20 report from Doctor Collins that said clearly  
21 there was no abnormalities in the brain. Yet he  
22 used that to extend the time of death.

23 MR. JULIAN: I am going to move to  
24 strike as nonresponsive.

25

SIDNEY L. MANES BY MR. JULIAN

1 BY MR. JULIAN:

2 Q. Let me ask you this question. You keep  
3 referring to slides. Were the slides that you  
4 saw Kodachrome slides?

5 A. What were they?

6 Q. Kodachrome, photographic Kodachrome-s?

7 MR. RICKNER: Are you asking if  
8 they were old school white slides with  
9 film inside?

10 MR. JULIAN: Yes.

11 A. It was just a picture of the brain in  
12 formaldehyde in a jar.

13 BY MR. JULIAN:

14 Q. Do you know if the original photographs  
15 were Kodachrome slides?

16 A. I don't know what that means, Julian,  
17 Mr. Julian. They were slides. Somebody took a  
18 picture. They were two slides and they were of  
19 the brain. That's all there were. There was no  
20 dissecting of the brain. There were no slides as  
21 we know them when you do a frog in botany.

22 Q. So Mr. Manes, we have gone through the  
23 Grand Jury testimony. There was no mention of  
24 slides by Doctor Mitchell to the Grand Jury,  
25 correct?

SIDNEY L. MANES BY MR. JULIAN

1           A.       Correct. As I read, there was no slides  
2 mentioned. If that was the total testimony, then  
3 there were no slides mentioned.

4           Q.       Do you have any reason to believe it  
5 wasn't the total testimony?

6           A.       I am sorry, say that again.

7           Q.       Do you have any reason to believe that  
8 you weren't provided with the total testimony  
9 here?

10          A.       I can't answer that. I have no idea.

11          Q.       Well, you have seen the Grand Jury  
12 testimony before many times, correct?

13          A.       No, not many times, no. But I remember  
14 the Grand Jury. I remember him saying, he was  
15 asked, how did he extended time. And he said  
16 that he examined his notes and the slides and  
17 that was how he determined to extend the time of  
18 the murder from Saturday night, Sunday to Friday  
19 night.

20          Q.       Mr. Manes, are you talking about the  
21 Grand Jury testimony or the trial testimony?

22          A.       I think the trial. You showed me  
23 the testimony, that it was the trial.

24          Q.       I have been repeatedly asking you  
25 questions at this point about the Grand Jury.

SIDNEY L. MANES BY MR. JULIAN

1 You know that, correct?

2 A. You showed it to me, I think. I hope  
3 that was the Grand Jury.

4 MR. RICKNER: Mr. Julian, Mr. Manes  
5 is here to talk about his personal  
6 knowledge. Asking him what he remembers  
7 about documents that he didn't author,  
8 didn't personally litigate is not really  
9 that helpful. It's essentially hearsay  
10 testimony. If you want the theory of  
11 the case, I will pick up the phone and  
12 run you through it. But asking my  
13 client whether or not he can identify  
14 every piece of the theory of the case  
15 from his own personal memory is  
16 essentially a waste of time legally. He  
17 is 96 years old. If you want to spend  
18 hours and hours doing it, fine.  
19 Eventually we are going to move the  
20 Judge and say look, no useful questions  
21 are being asked here. You can ask him  
22 about Hector. You can ask him what he  
23 knows.

24 MR. JULIAN: You know, Mr. Rickner,  
25 I have done this for a long time. I

SIDNEY L. MANES BY MR. JULIAN

1 really do not need instruction from you,  
2 with all due respect.

3 MR. RICKNER: You may not need  
4 instruction, but I am putting my  
5 position on the record.

6 MR. JULIAN: That's fine. You put  
7 your position on the record.

8 MR. RICKNER: Asking him about  
9 documents he didn't author, he didn't  
10 litigate, he didn't even see until years  
11 after the conviction and trying to  
12 ask --

13 MR. JULIAN: He is the plaintiff.  
14 He made these allegations. Not only  
15 that, he was the attorney for this  
16 decedent for years.

17 MR. RICKNER: Years later. You can  
18 ask him about those. But his opinion on  
19 the documents is not relevant.

20 MR. JULIAN: We will have a long  
21 discussion about that, Mr. Rickner. But  
22 I think the rules allow me to inquire.

23 MR. RICKNER: You can ask whatever  
24 you want.

25 MR. JULIAN: Quite frankly, I

SIDNEY L. MANES BY MR. JULIAN

1 object to your speech. I don't think  
2 under the rules you are entitled to give  
3 that speech. But if you would like to  
4 consult with the Magistrate and you  
5 would like to do it now, I am happy to  
6 do it.

7 MR. RICKNER: I am happy to let you  
8 finish your testimony because we only  
9 have a few hours today. But we should  
10 discuss the continued progress.  
11 Mr. Manes is 96 years old. If you want  
12 to make productive use of the  
13 questioning, you can. But if you don't,  
14 I think there is a time that we are  
15 going to ask to put a stop to it.

16 MR. JULIAN: Look, I am done being  
17 insulted by you. I have questions to  
18 ask of this man.

19 MR. RICKNER: I am not trying to  
20 insult you, sir.

21 MR. JULIAN: Well, you are. I have  
22 been nothing but polite and nothing but  
23 solicitous of this gentleman.  
24 Continuing to repeat his age is  
25 inferring that I am being anything but.

SIDNEY L. MANES BY MR. JULIAN

1 MR. RICKNER: I'm just stating the  
2 facts.

3 MR. JULIAN: I don't appreciate it.  
4 I am ready to call the magistrate right  
5 now if you want.

6 MR. RICKNER: I am saying you can  
7 continue the deposition. I have placed  
8 our position on the record.

9 MR. JULIAN: Thank you.

10 BY MR. JULIAN:

11 Q. In any event, Mr. Manes, you, as the  
12 plaintiff in this case, have made allegations  
13 with regard to the Grand Jury testimony, correct?

14 A. Yes. Upon information and belief.

15 Q. Not all. Let me ask you this.

16 A. I read them, Mr. Julian, I did. I just  
17 read them.

18 Q. So now I would like to turn -- in terms  
19 of your knowledge, tell me this. When was the  
20 deal made in terms of a date, a time and place  
21 between Fitzpatrick and Mitchell, when was the  
22 deal that you are alleging in paragraphs up  
23 through 83, when was that deal made?

24 A. You would have to read the testimony and  
25 the affidavit and the complaint that was filed by

SIDNEY L. MANES BY MR. JULIAN

1 Doctor Mangle and Doctor Rigle and Sawyer. These  
2 were men who worked in the Medical Examiner's  
3 Office at the time of Gordon's death. And I  
4 believe they were still there when Hector was  
5 incarcerated and found guilty. I think they were  
6 there at that time as well. You have to read  
7 those and they mention the meetings between  
8 Fitzpatrick and Mangle -- Doctor Mitchell.

9 Q. So it's your testimony that these three  
10 doctors Mangle, Rigle, and Sawyer all referenced  
11 a deal made between William Fitzpatrick and  
12 Doctor Mitchell with regard to Doctor Mitchell's  
13 testimony in the Rivas case?

14 MR. RICKNER: Objection. You can  
15 answer.

16 A. I don't know whether it was the Rivas  
17 case per se, but they met with -- Fitzpatrick met  
18 with Mitchell. All I can assume is when all of  
19 these claims that were made by the DEC, by the  
20 Mental Health Department appointing a mentor over  
21 Doctor Mitchell's operation as the medical  
22 examiner, the hearing that was held by the  
23 Department of Mental Health, the appointment of  
24 the mentor, and then his subsequently leaving  
25 here after he testified in the Hill case and



SIDNEY L. MANES BY MR. JULIAN

1 the -- I don't want to get in to that case. He  
2 left here with a clean bill of health.

3 Q. You may have said that before.

4 A. I am assuming that there had to be some  
5 sort of meeting between Doctor Mitchell and  
6 Fitzpatrick to have worked out some sort of  
7 arrangement. It certainly seems to me to be the  
8 case.

9 Q. As a practicing lawyer, was it your  
10 custom and practice to meet with witnesses before  
11 they testified in a trial?

12 A. Oh, absolutely.

13 Q. Would you agree that that is good legal  
14 practice?

15 A. Yes. I would agree that that is good  
16 legal practice.

17 Q. Do you know whether William Fitzpatrick  
18 ever in any of his meetings with Doctor Mitchell  
19 was meeting with him to prepare him for trial?

20 A. I don't know. I have no idea what that  
21 meeting was about other than the fact that he  
22 left here with a clean bill of health after his  
23 testimony.

24 Q. Now, I would like to ask you some  
25 questions, if we could scroll to paragraph 99,

SIDNEY L. MANES BY MR. JULIAN

1 please. Do you need -- I am going to ask you  
2 some questions about this paragraph. Would  
3 you like -- if you want to read any of the  
4 language before it or afterward, just tell me.  
5 Okay?

6 A. I want to do what?

7 MR. RICKNER: If you want to read  
8 the rest of the Complaint, he will let  
9 you or you can listen to his question  
10 and then decide if you want to.

11 A. Let me hear the question.

12 BY MR. JULIAN:

13 Q. You got it. So paragraph 99 you state  
14 "Mitchell further testified that when he reviewed  
15 autopsy sectional slides of Hill's brain before  
16 trial, he noticed in them "some decompensation to  
17 the brain". This, he states "tends to push the  
18 (time) limits further out." Do you see that?

19 A. Yes, I see it.

20 Q. I would like to ask you to turn --

21 MR. JULIAN: Tim, can we pull up  
22 JJ, please?

23 (Whereupon, a discussion was held  
24 off the record.)

25

SIDNEY L. MANES BY MR. JULIAN

1 BY MR. JULIAN:

2 Q. Let the record show that Exhibit JJ is  
3 the trial testimony of Erik Mitchell, both his  
4 direct, cross, and redirect. Now, have you  
5 reviewed this testimony recently?

6 A. No. And I -- no. And I was not at  
7 trial.

8 Q. Well, you have referenced the testimony  
9 frequently during -- the trial testimony  
10 frequently during your testimony here, haven't  
11 you?

12 A. Did I what?

13 MR. RICKNER: Objection. He is  
14 saying have you referenced Erik  
15 Mitchell's testimony during your  
16 testimony here today?

17 A. Okay.

18 BY MR. JULIAN:

19 Q. Okay means yes?

20 A. I still don't understand your question.

21 Q. I will try to do better. You have made  
22 reference in your testimony here today to  
23 statements that Doctor Mitchell made before the  
24 jury at the Rivas trial, correct?

25 A. I am sorry. I still don't understand.

SIDNEY L. MANES BY MR. JULIAN

1 Q. By all means. In your testimony earlier  
2 this afternoon, you have talked about your  
3 recollection of what Doctor Mitchell said at  
4 Hector's trial, correct?

5 A. Only through my lawyer. I wasn't at the  
6 trial.

7 Q. You have read the transcript before  
8 coming here today, correct?

9 MR. RICKNER: Objection to form.

10 Have you ever read Erik Mitchell's trial  
11 testimony ever?

12 A. Yes.

13 BY MR. JULIAN:

14 Q. How many times have you read it?

15 A. I don't know. Maybe once, maybe twice.  
16 I read it afterward. I wasn't at the trial  
17 certainly.

18 Q. I understand you weren't at the trial.  
19 So it's your testimony that you have only read  
20 Doctor Mitchell's trial testimony once or twice  
21 in all the time that you represented Hector Rivas  
22 and in all the time of this lawsuit?

23 A. Yes. Yeah.

24 Q. Okay. Is it your testimony that  
25 Doctor Mitchell referred to sectional slides in

SIDNEY L. MANES BY MR. JULIAN

1 his testimony at the trial?

2 A. No. I don't believe that was my  
3 testimony because I didn't hear him say that.  
4 The only time I heard of sectional slides,  
5 autopsy slides was by Fitzpatrick. That's what  
6 he told the jury. That's what I read.

7 Q. So let's go back to paragraph 99 of  
8 Exhibit A. Did you allege in paragraph 99 of  
9 Exhibit A "Mitchell further testified when he  
10 reviewed autopsy sectional slides of Hill's brain  
11 before trial, he noticed in them some  
12 decomposition to the brain. This he stated  
13 tenders to push the time limits further out."  
14 Did you make that allegation?

15 MR. RICKNER: Form. You can  
16 answer.

17 A. I do not recall my saying that he  
18 reviewed autopsy sectional slides. His  
19 testimony, as I recall, was he reviewed his notes  
20 and the slides. The autopsy sectional slides  
21 came from Fitzpatrick as he pounded the table on  
22 summation.

23 BY MR. JULIAN:

24 Q. How do you know that if you weren't at  
25 the trial?

SIDNEY L. MANES BY MR. JULIAN

1 A. Do what?

2 Q. How do you know he pounded the table?

3 A. Well, that's what I just thought that  
4 that is what he did and he did it well.

5 Q. You were not there?

6 A. No, I was not there. Absolutely.

7 MR. RICKNER: Is this a metaphor?

8 THE WITNESS: Yes, exactly.

9 BY MR. JULIAN:

10 Q. Do you know if either Fitzpatrick or  
11 Mitchell referred to the slides as sectional  
12 tissue slides at any time?

13 MR. RICKNER: Objection. You can  
14 answer.

15 A. I am sorry. I don't remember. I don't  
16 remember that, whether that came from Fitzpatrick  
17 or that came from Doctor Mitchell or from the  
18 summation.

19 BY MR. JULIAN:

20 Q. Well, may I ask the question in a  
21 different way. What I am trying to determine is  
22 if you remember either Mitchell or Fitzpatrick  
23 ever referring to the slides as sectional tissue  
24 slides?

25 A. Only reading the testimony and the

SIDNEY L. MANES BY MR. JULIAN

1 summation by Fitzpatrick do I recall Fitzpatrick  
2 saying that. He expanded on the slides, you see.

3 Q. Is it your memory that he referred to  
4 the slides as tissue slides?

5 A. I am sorry. I don't remember whether it  
6 was tissue slides or sectional slides to give the  
7 impression that they were slides of the brain.  
8 That's how he learned of the decompensation and  
9 was able to extend the time of death.

10 Q. Do you recall appearing before the  
11 Second Circuit Court of Appeals in this case --

12 MR. JULIAN: Strike that.

13 BY MR. JULIAN:

14 Q. Do you recall appearing before the  
15 Second Circuit Court of Appeals on April 6, 2016?

16 A. Can you show me -- I mean, why were we  
17 there at the Second Circuit because we were there  
18 frequently.

19 Q. Let me give you a document, Mr. Manes.

20 A. All right.

21 Q. That's fine.

22 MR. JULIAN: Tim, could you bring  
23 up Exhibit Y, please, which I am  
24 identifying as a document entitled Show  
25 Cause Hearing in the matter of Hector

SIDNEY L. MANES BY MR. JULIAN

1 Rivas against Fischer April 6, 2016.

2 (Whereupon, a discussion was held  
3 off the record.)

4 BY MR. JULIAN:

5 Q. Does it show you being present?

6 A. Yes.

7 Q. Do you remember this?

8 A. I remember. If you show me the  
9 documents, it will refresh my recollection.

10 Q. Sure.

11 MR. JULIAN: Tim, let's go to Bates  
12 number 185373.

13 (Whereupon, a discussion was held  
14 off the record.)

15 BY MR. JULIAN:

16 Q. You see where it says may we have the  
17 appearance of counsel stated for the record?

18 A. Yep.

19 Q. Do you see there is an attribution to  
20 you, Mr. Manes, it says Sidney Manes?

21 A. Yes. I was there, absolutely.

22 Q. You were appearing as counsel for Hector  
23 Rivas?

24 MR. RICKNER: Objection.

25 A. I was his pro bono counsel. Mr. Langone



SIDNEY L. MANES BY MR. JULIAN

1 was his counsel and so was Mr. Klein, but that  
2 the Supreme Court case. And so was Kim Zimmer.

3 MR. RICKNER: Can we actually take  
4 a break? We have gone going about an  
5 hour and twenty minutes.

6 MR. JULIAN: Sure. The rule is.

7 MR. RICKNER: I wait until a  
8 question is finished and then I ask.

9 MR. JULIAN: Thank you.

10 VIDEOGRAPHER POTTER: The time is  
11 3:18 p.m. We are off the record.

12 (Whereupon, a brief recess was  
13 taken.)

14 VIDEOGRAPHER POTTER: The time is  
15 3:24 p.m. We are on the record.

16 MR. RICKNER: Mr. Manes, you just  
17 had a clarification regarding the  
18 representation. Would you like to  
19 explain that to, Mr. Julian.

20 A. Mr. Julian, I was never the real  
21 attorney of record. I was merely a pro bono  
22 counsel to whom Hector wrote a letter asking me  
23 to help him. I was impressed with Hector and  
24 what he wrote me. And as a result of that, I  
25 started to get FOIL requests on his behalf. But

SIDNEY L. MANES BY MR. JULIAN

1 I was never his attorney of record, though, I  
2 went to all the hearings on the Second Circuit  
3 and I subsequently wrote some documents on  
4 Hector's behalf. But Langone was his lawyer,  
5 Klein was his lawyer, Schumann was his lawyer,  
6 Fahey was his lawyers. Those were the lawyers  
7 that handled the legal aspect.

8 Q. How about Priest?

9 A. I was pro bono counsel.

10 Q. Was Priest his lawyer also?

11 A. Yeah, Priest was his lawyer too, I  
12 think.

13 Q. So thank you for that. So we are at the  
14 Second Circuit, correct?

15 A. Yeah, we are at the Second Circuit, yes.  
16 This was a very important meeting, as I remember.

17 Q. Why was it important?

18 A. I beg your pardon?

19 Q. I apologize. I will try to speak  
20 louder. Why was it important?

21 A. Well, he wanted all counsel there, the  
22 judges there, the three panel. They wanted all  
23 the lawyers there to talk about how to get Hector  
24 out of jail. They had determined that he was  
25 actually innocent and they sent it back for him

SIDNEY L. MANES BY MR. JULIAN

1 to be released until the trial. They ordered a  
2 new trial on his behalf. Judge Miller, who was  
3 then the judge because Kilroy had died, he set  
4 bail at the request of the District Attorney, he  
5 asked for a million and the judge gave him  
6 500,000. I got it -- we when to the Appellate  
7 Division and they reduced it to 200,000. He had  
8 no money. He had no way of getting out. He had  
9 no place to run. Judge Miller wouldn't let him  
10 out. So he wanted everybody there because the  
11 Court then was going to review and then make a  
12 decision and send it to Judge Miller. That's  
13 what it was all about.

14 Q. So just if we could take a quick trip  
15 through this transcript, sir.

16 A. It was rather long.

17 Q. That's why I said a quick trip.

18 A. All right.

19 MR. JULIAN: If we could go to  
20 page 185391.

21 (Whereupon, a discussion was held  
22 off the record.)

23 BY MR. JULIAN:

24 Q. At this point of the transcript do you  
25 remember discussing with the Second Circuit what

SIDNEY L. MANES BY MR. JULIAN

1 documents had been received and were available at  
2 this stage of the case, received through FOIL and  
3 other means, do you recall discussing that with  
4 the Second Circuit?

5 A. No, I don't recall that. I did the  
6 FOILING of requests. I remember them asking me a  
7 question. There were documents I FOILED.

8 Q. Okay. If we could go to the bottom of  
9 the page here, do you see your name where you  
10 address the Court?

11 A. Yeah, I see that.

12 Q. If you would like to look at what you  
13 have to say on pages 391 through 393, if you  
14 would just like to read through it for a minute,  
15 I have a couple questions for you. Okay?

16 A. Yeah.

17 Q. Thank you.

18 (Whereupon, a discussion was held  
19 off the record.)

20 A. Do you want me to read the whole page?

21 BY MR. JULIAN:

22 Q. I will leave it up to you. You can read  
23 any and all of that. I am respectfully  
24 suggesting we start with what you had to say at  
25 the bottom of the page. Then go to the next page

SIDNEY L. MANES BY MR. JULIAN

1 of transcript, which is page 393. We have a  
2 series of blank pages in this transcript, that's  
3 how I received it.

4 A. Okay. I finished that page.

5 Q. Do you remember the context in which you  
6 were discussing the documents that you had  
7 obtained with the Second Circuit?

8 A. Yeah, I recall that. That was  
9 Mr. Langone, though, not me. I was there on a  
10 440 Motion, yes.

11 Q. Were you telling the Second Circuit that  
12 there were a number of documents that you had  
13 obtained and that there were not any new  
14 documents provided?

15 A. I think I was saying that, that we had  
16 those documents and I had forwarded them on to  
17 Mr. Klein. He had them. There was a particular  
18 reason why the Court wanted some information  
19 about that. Because at that time they were  
20 supposed to have proceeded with some alacrity and  
21 to try Mr. Rivas, either that or let him go until  
22 the trial. The Court wanted to know if those  
23 were records that the District Attorney provided.  
24 But they had been provided before. That was not  
25 the issue. They had them. We had them. The

SIDNEY L. MANES BY MR. JULIAN

1 difficulty was Mr. Moran, that he was not ready  
2 for trial, though he kept saying he was.

3 MR. JULIAN: Would you kind enough  
4 to go to page 185417, please. Actually,  
5 Tim, I misspoke, please, 415.

6 (Whereupon, a discussion was held  
7 off the record.)

8 BY MR. JULIAN:

9 Q. Again, you are entitled to read whatever  
10 you need to read, sir. I would like to direct  
11 your attention to the Assistant Attorney General  
12 Ms. Steward's comments on this page. What she  
13 says "Actually, my recollection is the People had  
14 represented that the investigation did not begin  
15 until after the trial was over." I believe she  
16 is referencing the investigation by the DA's  
17 Office of Doctor Mitchell. And the trial that  
18 she was referring to is Hector's trial. Do you  
19 remember this, does this refresh your  
20 recollection?

21 A. Can I see the rest of that, please? Can  
22 I see the rest of that?

23 Q. Go to page 419.

24 A. I don't know what she is referring to.  
25 144 misdemeanors for disposing of body parts, for

SIDNEY L. MANES BY MR. JULIAN

1 pouring material, blood, yeah.

2 Q. May I ask you a couple questions?

3 A. That's exactly what I said. I am trying  
4 to tell the truth here.

5 Q. Okay. Did you say -- is the transcript  
6 correct on page Bates number 185419 at line 7 did  
7 you say "if you will forgive me, Your Honor, she  
8 indicates the DA wasn't investigating, that may  
9 be true." Did you see that?

10 A. Let me read the rest of it.

11 Q. Sure.

12 A. Okay.

13 Q. Are you finished reading it?

14 A. Yep, I have read it.

15 Q. So to go back to my question. Did you  
16 say "if you will forgive me, Your Honor, she  
17 indicates that the DA wasn't investigating, that  
18 may be true." Did you say that?

19 A. It's possible, yes. I don't remember.  
20 It was so long ago, but it's possible.

21 Q. Were you conceding in that sentence that  
22 the District Attorney was not investigating?

23 A. It wasn't his job. That was the DEC's  
24 job to investigate environmental concerns. He  
25 would have prosecuted Mitchell for the

SIDNEY L. MANES BY MR. JULIAN

1       misdemeanors, absolutely. So he wasn't  
2       investigating. It was the DEC that did the  
3       investigating.

4       Q.       This would have been at the time of the  
5       Rivas trial, correct?

6       A.       This was the time of when, Mr. Justin --  
7       Mr. Julian, excuse me.

8       Q.       You can call me whatever you want, sir.  
9       Believe me, I have been called worse. What you  
10      are conceding here is that the District Attorney  
11      was not the investigating Mitchell for the  
12      environmental conservation issues at the time of  
13      the Rivas trial, correct?

14      A.       Yeah. That was the DEC.

15      Q.       Okay.

16      A.       The Department of Environmental  
17      Conservation, not the District Attorney. They  
18      were to turn the claims over to the DA to  
19      prosecute.

20      Q.       Thank you.

21      A.       Judge Pooler said he knew about the DEC  
22      to the best of our knowledge. That was Judge  
23      Pooler who said that.

24      Q.       I am not sure -- what are you referring  
25      to, sir?



SIDNEY L. MANES BY MR. JULIAN

1 MR. RICKNER: The next line.

2 A. The next line.

3 BY MR. JULIAN:

4 Q. Well, that's a question, isn't it?

5 A. Yeah. There is no evidence that the DEC  
6 was investigating.

7 Q. She asked the question. The next line,  
8 line 14 says Judge Pooler "he knew about the DEC,  
9 to the best of our knowledge."

10 A. Yeah.

11 Q. The Assistant Attorney General,  
12 Ms. Steward, said "we have no evidence of that".

13 A. Well, she is in Albany.

14 Q. Okay. Was any evidence given to the  
15 Second Circuit on this day that the District  
16 Attorney --

17 A. I have no idea.

18 Q. -- knew of this investigation at the  
19 time of the Rivas trial?

20 A. He is the District Attorney for the  
21 County who is going to prosecute Doctor Mitchell  
22 for the misdemeanors. I don't know, Mr. Julian,  
23 whether or not the DEC told the DA or the DA knew  
24 it or they sent them over to him to prosecute, I  
25 don't know that, if he was aware.

SIDNEY L. MANES BY MR. JULIAN

1 Q. Did you say you don't know that, but he  
2 was aware or you don't know if he was aware?

3 A. I don't know if the DA was aware, but I  
4 must assume as the County District Attorney that  
5 he would have known of the misdemeanors.

6 Q. Well, the question is whether he would  
7 have known of DEC's investigation before they  
8 proffered any charges, do you know that one way  
9 or the other?

10 A. No, I don't know that.

11 Q. At this same hearing you were again  
12 heard at page 185451.

13 MR. JULIAN: Timothy, would you  
14 take us there, please?

15 (Whereupon, a discussion was held  
16 off the record.)

17 BY MR. JULIAN:

18 Q. Now, Mr. Manes, just to give you some  
19 context and you are welcome to read whatever you  
20 need to. There is a discussion --

21 MR. RICKNER: Please scroll up and  
22 let him see the question he is being  
23 asked before he talks about the  
24 response.

25 MR. JULIAN: I'm sorry.

SIDNEY L. MANES BY MR. JULIAN

1 MR. RICKNER: I said please scroll  
2 up so he can see the Judge's question  
3 before he considers his response. Let's  
4 see the preamble for this.

5 MR. JULIAN: I thought you might  
6 want to know the question, but that's  
7 fine.

8 MR. RICKNER: Well, it looks like  
9 the question isn't really -- the  
10 immediately proceeding question doesn't  
11 get in to the topic.

12 MR. JULIAN: No, no. I mean, I  
13 thought you wanted to hear my question  
14 so he could read the document in that  
15 context. That's up to you. I will do  
16 it either way. It doesn't matter.

17 MR. RICKNER: Can you go up to the  
18 top of the page. It's not clear who is  
19 speaking.

20 A. It's not. It's Moran. He is the  
21 Assistant District Attorney. Would you scroll  
22 up, please?

23 (Whereupon, a discussion was held  
24 off the record.)

25 A. I don't think that's true.

SIDNEY L. MANES BY MR. JULIAN

1 MR. RICKNER: Let him ask the  
2 question. I also don't think it's true.  
3 But take a look at the document and see  
4 what Mr. Julian wants to ask about it.

5 A. Okay. I have read that.

6 BY MR. JULIAN:

7 Q. Have you read page 451? Please read  
8 that also.

9 A. Yeah, okay. What is the question?

10 Q. Were you ever provided with a report  
11 with regard to the presence of fingerprints on  
12 the book and specifically those of Hector Rivas?

13 A. To the best of my knowledge, Mr. Julian,  
14 we had information that there were three prints  
15 on the book and none of them were Hector's.

16 Q. Okay. I am not going to hold you to the  
17 exact date --

18 MR. RICKNER: Mr. Julian, don't cut  
19 off the witness. Continue, Mr. Manes.

20 MR. JULIAN: I'm sorry.

21 A. That was part of the FOIL request that I  
22 made. All that material was given to us, that  
23 was thirty years ago. I don't know how long ago,  
24 but it was a long time ago. We were advised and  
25 we had a report that showed there were three

SIDNEY L. MANES BY MR. JULIAN

1 prints and they were not Hector's and they didn't  
2 know whose they were. So that was brand new for  
3 us without question.

4 BY MR. JULIAN:

5 Q. Are you finished?

6 A. Yes, I am.

7 Q. I never intend to cut you off. So if I  
8 am cutting you off, tell me.

9 A. That's all right.

10 Q. After this, after the appearance on  
11 April 6, 2016, were you given a further report by  
12 the District Attorney's office with regard to the  
13 presence of Hector Rivas' prints on this library  
14 book?

15 MR. RICKNER: Form. You can  
16 answer.

17 A. Not that I remember.

18 BY MR. JULIAN:

19 Q. If that information were going to be  
20 provided, would it have been provided to you or  
21 someone else?

22 MR. RICKNER: Form. You can  
23 answer.

24 A. It would have gone to Mr. Klein who was  
25 his lawyer at that time. I do not recall it

SIDNEY L. MANES BY MR. JULIAN

1 coming to me. It may have, but I don't recall  
2 that. Forgive me. I know there was never -- if  
3 you will forgive me, there was never a reference  
4 to Valerie Hill's fingerprints were on the book.  
5 There were fingerprints they never identified,  
6 that I recall, but not Hector's.

7 Q. I apologize again. Are you finished?

8 A. Okay. Yes, I am.

9 Q. I mean, it's very hard on this --

10 A. I agree.

11 Q. -- format.

12 MR. JULIAN: How are we doing, Rob?

13 I am going to move in to a new area.

14 MR. RICKNER: My clock was 3:53.

15 MR. JULIAN: Do you want to do  
16 another seven minutes?

17 MR. RICKNER: The question is do  
18 you want to do another seven minutes?

19 MR. JULIAN: I am fine. I can do  
20 another seventy.

21 MR. RICKNER: We would object to  
22 that, but you have the rest of the hour.

23 MR. JULIAN: Thanks.

24 BY MR. JULIAN:

25 Q. Mr. Manes, I would now like to ask you

SIDNEY L. MANES BY MR. JULIAN

1 about Exhibit U.

2 MR. JULIAN: Tim, could you pull it  
3 up for us? Could you go to the bottom,  
4 please? Could you scroll downward,  
5 please? Can you just scroll that,  
6 please. Go to page 185046, please.

7 BY MR. JULIAN:

8 Q. So Mr. Manes, let the record show that  
9 as part of Exhibit U is a transcript of an  
10 appearance on March 18, 2016 before Onondaga  
11 County Judge Thomas J. Miller. Are you shown as  
12 appearing on that day with Mr. Klein, Ms. Zimmer,  
13 and Casey Johnson, yes, no, maybe?

14 MR. RICKNER: He wants to know if  
15 you appeared.

16 A. Oh, I appeared, absolutely, to the best  
17 of my knowledge.

18 BY MR. JULIAN:

19 Q. Can we go to page 185049. Toward the  
20 bottom of the page do you see where Mr. Klein  
21 speaks. I would ask you if you would be kind  
22 enough to read what he says at page 185049, 050,  
23 051. My question is a simple one. Do you agree  
24 with what he says?

25 MR. RICKNER: Objection. You can

SIDNEY L. MANES BY MR. JULIAN

1 answer.

2 BY MR. JULIAN:

3 Q. I guess did you agree with what he said?

4 MR. RICKNER: Objection. Different  
5 question.

6 A. It wasn't my job to agree or disagree.  
7 I wasn't asked. Mr. Klein was the attorney of  
8 record. There were many obstacles, I can tell  
9 you that. We couldn't get the DNA, the dairy and  
10 the second type. There were so many things they  
11 hadn't provided. Yes, he was cooperative, but  
12 Mr. Klein had to go over and dig for them. You  
13 got to ask Mr. Klein whether he was satisfied.  
14 It certainly was objectionable.

15 MR. JULIAN: Are we at  
16 4:00 o'clock?

17 MR. RICKNER: We are. While we are  
18 still on the record, I would just ask  
19 that -- well, plaintiff's obviously will  
20 do this, but if the defense counsel  
21 could please provide as many dates as he  
22 can in the next three weeks, we would  
23 really like to just get this done. I  
24 understand that we all have crowded  
25 schedules, but time is of the essence as



SIDNEY L. MANES BY MR. JULIAN

1 well. If you could just spit out three,  
2 four weeks worth of possible dates, half  
3 dates since we are doing this in two  
4 hour blocks, that would be very helpful.

5 MR. JULIAN: Sure.

6 MR. VENTRONE: The County has no  
7 objection.

8 MR. JULIAN: Where do you stand,  
9 Rob, with the information, tapes and  
10 whatever that the County sent to you?

11 MR. RICKNER: It's voluminous.  
12 It's immense. And going through it has  
13 been extraordinarily time consuming. We  
14 have probably sixty hours worth of  
15 audio.

16 MR. JULIAN: Okay.

17 MR. RICKNER: But I am happy to  
18 discuss that with you tomorrow. I am  
19 free all afternoon.

20 MR. JULIAN: Okay. I am not  
21 available tomorrow. I apologize.

22 MR. RICKNER: Email me your  
23 availability. I will pick up the phone  
24 and we will talk.

25 MR. JULIAN: I will give you a

SIDNEY L. MANES BY MR. JULIAN

1 call. I am not putting you on the spot,  
2 it's just while we are here, I was  
3 wondering.

4 MR. RICKNER: It's a fair question,  
5 I just don't have a better answer today.

6 MR. JULIAN: That's a good answer  
7 for the moment.

8 VIDEOGRAPHER POTTER: The time is  
9 4:02 p.m. We are off record.

10 (Whereupon, the Witness is  
11 excused.)

12 THE PROCEEDINGS WERE ENDED.

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STATE OF NEW YORK )  
)  
COUNTY OF )

**CERTIFICATE OF WITNESS**

I, SIDNEY L. MANES, hereby certify that I have  
read the transcript of my testimony taken under  
oath on August 22, 2022; that the transcript is a  
true, complete, and correct record of what was  
asked, answered, and said on the record as given  
by me are true and correct.

\_\_\_\_\_  
SIDNEY L. MANES

SUBSCRIBED AND SWORN to before me, the  
undersigned authority, on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2022.

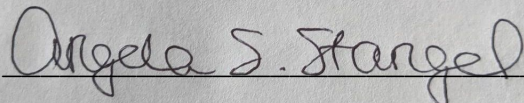
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NOTARY PUBLIC

**C E R T I F I C A T E**

I, ANGELA S. STANGEL, Court  
Reporter and Notary Public in and for the State  
of New York, do hereby certify that I recorded  
stenographically the foregoing at the time and  
place mentioned and that the preceding is a true  
and correct transcript thereof to the best of my  
knowledge, ability, and belief.

I further certify that I am not an  
attorney or counsel of any parties, not a  
relative or employee of any attorney or counsel  
connected with the action, nor financially  
interested in the action.

WITNESS, my hand and seal in the  
County of Oneida, State of New York.

A handwritten signature in cursive script that reads "Angela S. Stangel". The signature is written in black ink on a light-colored background.

ANGELA S. STANGEL  
Court Reporter